

THE INTERACTIVE PROCESS

DON'T LET THE AMERICANS WITH DISABILITIES ACT TRIP YOU UP



THE INTERACTIVE PROCESS

- **CREATE A POLICY**
- **REVIEW JOB DESCRIPTIONS**
- **TRAIN SUPERVISORS TO RECOGNIZE AN ACCOMMODATION REQUEST**
- **PERSONAL MEETING WITH THE EMPLOYEE**
- **OBTAIN INFORMATION FROM EMPLOYEE'S PHYSICIAN**
- **ANALYSIS AND CHOICE OF ACCOMMODATION**
- **CONTINUED DIALOGUE**
- **DOCUMENTATION**

CREATE A POLICY



ADA



AMERICANS WITH DISABILITIES ACT

THE POLICY OF THE STATE OF ALASKA IS THAT

No qualified individual with a disability shall be excluded, by reason of such disability, from participation in or be denied the benefits of the service, programs, or activities of a state agency; or be subjected to discrimination by any such agency.

Each agency shall operate each of its services, programs, and activities so that a service, program or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities.

No agency shall discriminate against a qualified individual with a disability because of the disability of such individual in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and any other term, condition, and privilege of employment.

REASONABLE ACCOMMODATIONS OR MODIFICATIONS ARE AVAILABLE FOR

Citizens to register or participate in state programs, services, or activities.

Applicants in the interviewing and selection process.

Employees to perform the essential functions of their jobs.

IF YOU NEED HELP

Or believe you or others have been discriminated against on the basis of disability, contact the agency ADA coordinator at www.Alaska.gov/ADA or one of the following offices:

Department of Education and Early Development

c/o Commissioner's Office

801 West 10th Street, Suite 200, Juneau, AK 99801

Telephone: (907) 465-2802; TDD/Alaska Relay: 7-1-1 or 1 (800) 770-8973

State ADA Coordinator's Office

10th Floor State Office Building, P.O. Box 110201, Juneau, AK 99811

Telephone/TDD: (907) 465-6929



Administrative Order 129 requires posting of this notice on all bulletin boards and at every facility and office. (Rev. 3/14)

REVIEW JOB DESCRIPTIONS

- **HAVE WE ACCURATELY
DESCRIBED THE
ESSENTIAL FUNCTIONS OF
THE JOB?**



ESSENTIAL FUNCTIONS?

- **THE REASON THAT THE JOB EXISTS IS TO PERFORM THAT DUTY;**
- **A LARGE PERCENTAGE OF WORK TIME IS SPENT PERFORMING THE DUTY;**
- **THERE ARE NO (OR A LIMITED NUMBER OF) OTHER EMPLOYEES AVAILABLE TO PERFORM THE DUTY;**
- **THE WORKER IS HIRED FOR HIS OR HER EXPERTISE AND THE WORK IS HIGHLY SPECIALIZED;**
- **THE EMPLOYER JUDGES THE JOB DUTY TO BE ESSENTIAL TO PERFORMING THE JOB;**
- **SERIOUS CONSEQUENCES WOULD OCCUR IF THE DUTY WERE NOT PERFORMED;**
- **THE JOB DUTY IS REQUIRED BY THE TERMS OF A COLLECTIVE BARGAINING AGREEMENT; AND**
- **INDIVIDUALS IN THAT JOB IN THE PAST PERFORMED THE DUTY.**

PERSONAL MEETING WITH THE EMPLOYEE



- **Attendees?**
- **Review Essential Functions (Hopefully not for the first time)**
- **Identify challenges caused by the disability re: Essential Functions**

PHYSICIAN INPUT

- **NATURE/SEVERITY/DURATION OF LIMITATION**
- **LIMITATIONS/RESTRICTIONS CAUSED BY THE DISABILITY**
- **SUGGESTED ACCOMMODATIONS**
- **CAN'T ASK FOR THE ENTIRE FILE**
- **GINA SAFE HARBOR**
- **CONFER WITH COUNSEL**

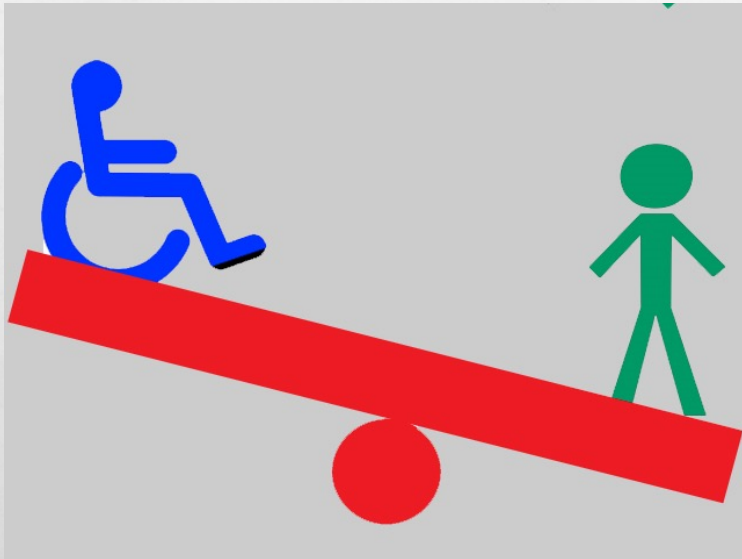


ANALYSIS

- **REASONABLE
ACCOMMODATION?**
- **UNDUE HARDSHIP?**
- **DIRECT THREAT?**



UNREASONABLE ACCOMMODATIONS



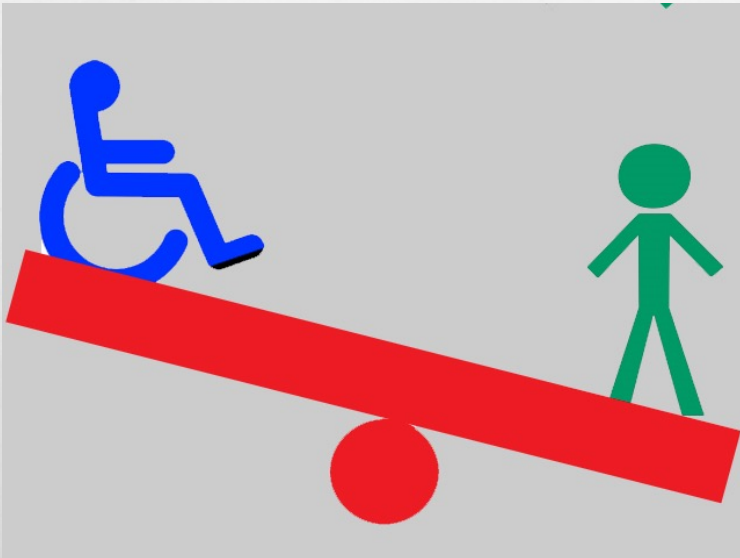
- **REQUIRES REALLOCATION OF ESSENTIAL JOB FUNCTIONS**
- **WILL NOT ENABLE THE EMPLOYEE TO BE QUALIFIED**
- **LOWERS PRODUCTION STANDARDS APPLIED TO ALL EMPLOYEES**
- **PROVIDES PERSONAL USE ITEMS**
- **CHANGES AN EMPLOYEE'S SUPERVISOR**
- **EXCUSES VIOLATION OF UNIFORMLY APPLIED CONDUCT RULES**

UNDUE HARDSHIP:

Action Requiring Significant Difficulty or Expense

(SOME) FACTORS TO CONSIDER WHEN DETERMINING WHETHER AN ACCOMMODATION WOULD POSE AN UNDUE HARDSHIP:

- **NATURE AND COST OF THE ACCOMMODATION NEEDED**
- **OVERALL FINANCIAL RESOURCES OF THE FACILITY MAKING THE REASONABLE ACCOMMODATION (NUMBER EMPLOYEES; IMPACT ON FACILITY)**
- **OVERALL FINANCIAL RESOURCES, SIZE, NUMBER OF EMPLOYEES, AND TYPE AND LOCATION OF FACILITIES OF THE EMPLOYER (IF THE FACILITY INVOLVED IN THE REASONABLE ACCOMMODATION IS PART OF A LARGER ENTITY)**
- **IMPACT ON OPERATIONS ON THE FACILITY**



DIRECT THREAT



- **SIGNIFICANT RISK OF SUBSTANTIAL HARM**
- **INDIVIDUALIZED ASSESSMENT RELYING ON THE MOST CURRENT MEDICAL ADVICE AND OBJECTIVE EVIDENCE, AND ASSESSING MULTIPLE RISK FACTORS, SUCH AS NATURE DURATION, SEVERITY, PROBABILITY AND ACCOMMODATIONS THAT MIGHT MITIGATE THE RISKS**

CONTINUED DIALOGUE



- **FOLLOW UP – IS THE ACCOMMODATION EFFECTIVE?**
- **AN ACCOMMODATION REQUEST IS NEVER TRULY CLOSED – MEDICAL CONDITIONS CHANGE**
- **POLICY SHOULD MAKE CLEAR THE PROCESS WILL CONTINUE, REQUIRE EMPLOYEE TO INFORM OF CHANGES OR INEFFECTIVE ACCOMMODATIONS**